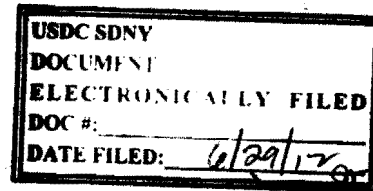


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



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UNITED STATES OF AMERICA :

-v- :

**NOLLE PROSEQUI**

MAHMOUD REZA BANKI, :

**S1 10 CR. 08 (PAE)**

Defendant. :

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1. The filing of this *nolle prosequi* will dispose of Counts One, Two, and Three in this case with respect to the defendant, Mahmoud Reza Banki.

2. On March 17, 2010, Indictment S1 10 Cr. 08 (JFK) (the "Indictment") was filed, charging defendant Mahmoud Reza Banki in five counts: Count One charged Banki with a dual-object conspiracy of violating the Iranian Transactions Regulations (the "ITR"), 31 C.F.R. Part 560, which implement Executive Orders 12957, 12959, and 13059, issued pursuant to the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. §§ 1701-06, and operating an unlicensed money-transmitting business, in violation of 18 U.S.C. § 1960. Count Two charged a substantive violation of the IEEPA and the ITR. Count Three charged a substantive violation of operating an unlicensed money-transmitting business. Each of Counts Four and Five charged Banki with making false statements, in violation of 18 U.S.C. § 1001. The Indictment also contained forfeiture allegations with respect to the first three counts.

3. Trial on the charges in the Indictment commenced on May 10, 2010, and ended on June 4, 2010, when the jury convicted Banki on all five counts with which he was charged in the Indictment. The jury later granted forfeiture against one of Banki's bank accounts, but either declined to forfeit or hung on additional assets.

4. On August 16, 2010, Banki was sentenced to concurrent terms of imprisonment of 30 months on each count of the Indictment, to be followed by concurrent terms of supervised release of three years. The Court also imposed a mandatory \$500 special assessment and entered a money judgment in the amount of \$3,314,047.

5. Following Banki's appeal, by Opinion and Order dated February 22, 2012 (the "Opinion and Order"), the United States Court of Appeals for the Second Circuit vacated and remanded Counts One through Three of the Indictment, and affirmed the conviction on Counts Four and Five. The Opinion and Order vacated Counts One through Three due to instructional error that it found. Due to the vacatur of Counts One through Three (the counts on which the money judgment was predicated), the Opinion and Order had the effect of vacating the money judgment.

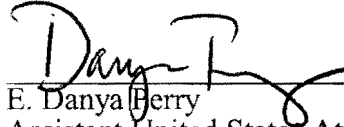
6. On November 2, 2011 (following the Second Circuit's initial opinion and order, dated October 24, 2011, which was subsequently amended in the February 22, 2012 Opinion and Order), and upon the Government's consent, Banki's sentence on Counts One through Three was vacated, and Banki was ordered released pending further proceedings in this case. Banki, who had been detained since his arrest on January 7, 2010, had served nearly all of the 30-month prison sentence imposed in August 2010 (given credits for good behavior), and had been scheduled for imminent release to a halfway house at the time of his release.

7. The parties have entered into an agreement whereby Banki has agreed to not contest the judicial (civil) forfeiture of certain assets contained in the Indictment's Forfeiture Allegations. Specifically, Banki has agreed to not contest the judicial (civil) forfeiture of funds on deposit at financial institutions totaling approximately \$710,000.

8. Based upon the foregoing, the Government has concluded that further prosecution of the defendant would not be in the interests of justice.


9. In light of the foregoing, I recommend that an order of *nolle prosequi* be filed as to defendant Mahmoud Reza Banki, dismissing Counts One, Two, and Three of Indictment S1 10 Cr. 08 (PAE).

10. The defendant, through his counsel, consents to this request.

  
E. Danya Berry  
Assistant United States Attorney  
(212) 637-2434


Dated: New York, New York  
June 28, 2012

Upon the foregoing recommendation, I hereby direct, with leave of the Court, that an order of *nolle prosequi* be filed as to defendant Mahmoud Reza Banki, dismissing Counts One, Two, and Three of Indictment S1 10 Cr. 08 (PAE).

  
PREET BHARARA *y2R*  
United States Attorney  
Southern District of New York

Dated: New York, New York  
June 28, 2012

SO ORDERED:

  
Hon. Paul A. Engelmayer  
United States District Judge  
Southern District of New York

Dated: New York, New York  
June 28, 2012